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**FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY**

**ORIGINAL**

February 22, 1999

Chairman William Kennard  
Office of the Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

*Ex Parte Presentation*

Re: *Petition of Southwestern Bell Telephone Company, Pacific Bell and Nevada Bell for Expedited Declaratory Ruling on Interstate IntraLATA Toll Dialing Parity, or in the Alternative, Various Other Relief*, NSD File L-98-121; CC Docket No. 96-98 ✓

Dear Chairman Kennard::

As the Commission considers its next steps in requiring that the statutory mandate of intrastate dialing parity be implemented, MCI WorldCom, Inc. ("MCI Worldcom") has been informed that the Commission is considering distinction between plans that have been approved by states, and those that have not. Where approved plans exist, implementation can be immediate.<sup>1</sup> In MCI WorldCom's view, where approved plans do not exist, the Commission might decide to give the states a few weeks-not months- to complete their review of the Bell Operating Company ("BOC") implementation plans.

At present, eleven states have not fully implemented intrastate dialing parity requirements.<sup>2</sup> However, substantial work has been done by five state commissions to review and approve plans submitted by the BOC in California, Texas, Virginia, Maryland and Michigan. Below, we provide the specific state commission authority for the Commission's consideration in reviewing the approval status of BOC plans.

In a fifty-two-page decision issued April 23, 1997, the California Public Utility Commission ("CPUC") provided specific direction to Pacific Bell to implement dialing parity in its region.<sup>3</sup>

<sup>1</sup> For example, on February 17, 1999, the Kansas Commission ordered SBC to implement intraLATA dialing parity "immediately." The Tennessee Regulatory Authority approved a plan to begin implementation on the same day.

<sup>2</sup> These states are: Arkansas, California, Idaho, Michigan (for Detroit metro only) Maryland, Missouri, North Dakota, Nevada, South Dakota, Texas and Virginia.

<sup>3</sup> See, *In the Matter of Alternative Regulatory Frameworks for Local Exchange Carriers and Related Matters (IntraLATA Presubscription Phase)*, California Public Utility Commission Decision 97-04-083, April 23, 1997).

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Nineteen ordering clauses constitute the California plan.<sup>4</sup> It is clear that the CPUC has already carefully considered all the issues associated with Pacific's implementation plan for California and that a plan is approved. All that remains is the selection of an implementation date.

In Texas, even SBC admits that the plan is approved except for one issue on which the Texas PUC ("TPUC") has yet to rule.<sup>5</sup> Once the FCC issues its dialing parity order, the TPUC will decide on the remaining issue.<sup>6</sup> Similarly, in its 1997 order, the Nevada Public Service Commission accepted a settlement agreement negotiated by the parties whereby the parties "reach agreement regarding issues related to the implementation of intraLATA equal access in the service area of [Nevada Bell]."<sup>7</sup>

The Virginia State Corporation Commission ("Virginia") approved Bell Atlantic's 1+ plan in a May 9, 1997 order. In its most recent order, Virginia clearly states that the plan was approved, but stops short of ordering a date for implementation.<sup>8</sup> At this time, Virginia has said it will not act and believes that the Commission should decide when Bell Atlantic has to implement dialing parity for the state of Virginia. The Maryland Public Service Commission ("Maryland") has taken a similar position to that of Virginia. In its 1997 Order, Maryland ordered Bell Atlantic to "modify [its] presubscribed intraLATA toll dialing parity plan[] in accordance with the terms of this Order," and to "abide by the terms of the amended presubscribed intraLATA toll dialing parity plan[] directed above."<sup>9</sup> With those modifications, Bell Atlantic's plan is complete, except for the implementation date.

Lastly, although Ameritech has mounted a legal challenge to the Michigan PSC ("Michigan") decision and has managed to tie up dialing parity in litigation for four years, Michigan's 1995 Order

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<sup>4</sup> Id. at 46-53.

<sup>5</sup> See, e.g., *Southwestern Bell Telephone Company's Supplemental Filing to its Amended 1+ IntraLATA Toll Dialing Parity Implementation Plan*, Docket No. 17000 (filed August 25, 1998).

<sup>6</sup> The Texas PUC ("TPUC") expects to finalize SBC's implementation plan on March 11, 1999, pending an Order from the FCC. The TPUC has directed the Administrative Law Judge to hold a pre-hearing conference before March 11, 1999 to resolve the outstanding technical issue along with other issues SBC may choose to raise. (See, Texas PUC Open Meeting, Tr. at \_\_ (February 17, 1999)(discussing Docket Nos. 17000 and 19919.))

<sup>7</sup> See *Settlement Agreement as accepted by the Public Utilities Commission of Nevada* in Compliance Order, Docket Nos. 96-7036, 96-12018 and 97-2010, May 12, 1997 and Modified Compliance Order, Docket Nos. 96-7036, 96-12018 and 97-2010, December 1, 1997, p 2-3.

<sup>8</sup> See *Implementation of IntraLATA Toll Dialing Parity following the provisions of 47 U.S.C. §251(b)(3)*, Case No. PUC970009, *Order on Motion of Bell Atlantic-Virginia, Inc. To Clarify its Obligation to Implement IntraLATA Toll 1+ Presubscription*, Commonwealth of Virginia State Corporation Commission (November 6, 1998) at 1 ("the Commission ordered on May 9, 1997, that BA-VA's dialing parity plan be approved in accordance with its findings").

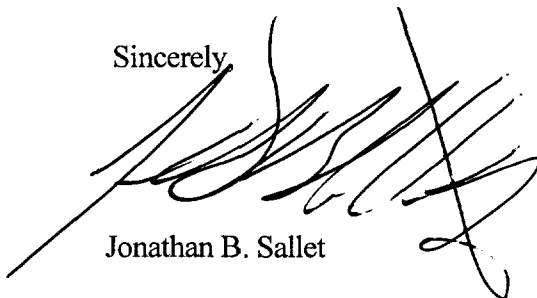
<sup>9</sup> *In the Matter of the Commission's Policies Concerning Presubscribed IntraLATA Toll Dialing*, Order No. 73481, State of Maryland Public Service Commission, Case No. 8761 (May 23, 1997).

outlined the implementation steps necessary for Ameritech to provide intraLATA dialing parity.<sup>10</sup> Therefore, the Michigan plan is approved. As to Ameritech's appeal, the argument that the PSC violated a Michigan statute when it ordered Ameritech to provide dialing parity before it received interLATA authority is no longer relevant given the Supreme Court's decision that the FCC has jurisdiction over dialing parity. Moreover, in Michigan's case, the FCC rules do not require an implementation plan because Michigan adopted dialing parity before the statutory grandfathering date of December 19, 1995.<sup>11</sup>

In each of these cases, the evidence is clear that the state has approved an implementation plan. The Commission should therefore specify that for California, Nevada, Texas, Maryland, Virginia and Michigan, plans are approved and 47 CFR 52.213 is satisfied. The FCC should therefore follow the actions taken by Alabama, South Carolina, Tennessee and Kansas, and order the BOCs to immediately open their intraLATA toll market to competition. Moreover, the Commission should recognize, as these states have, that consumer notification and education efforts need not precede technical implementation.

Attachment 1 lists the remaining states that have not yet implemented dialing parity and provides the status of the BOCs' implementation plan.

Sincerely,



Jonathan B. Sallet

CC: Harold Furchtgott-Roth, Commissioner  
Susan Ness, Commissioner  
Michael Powell, Commissioner  
Gloria Tristani, Commissioner  
Linda Kinney, Legal Advisor to Commissioner Ness  
Kathy Brown, Chief of Staff, Office of the Chairman  
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Kyle Dixon, Legal Advisor to Commissioner Powell  
Paul Gallant, Legal Advisor to Commissioner Tristani  
Kevin Martin, Legal Advisor to Commissioner Furchtgott-Roth  
Tom Power, Legal Advisor to the Chairman

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<sup>10</sup> See, *In the Matter of the application of MCI Telecommunications Corporation against Ameritech Michigan and GTE North Inc. relative to their not making intraLATA equal access available in the State of Michigan*, Case No. U-10138, before the Michigan Public Service Commission, (March 10, 1995) (June 5, 1995.)

<sup>11</sup> 47 USC §271(e)(2)(B)

Christopher Wright, General Counsel  
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**ATTACHMENT 1**  
**Status of BOC Implementation Plans that are not yet Approved**

*SBC Region*

1. Missouri: The Missouri Commission has not addressed intraLATA dialing parity despite a petition filed by MCI Worldcom in September 29, 1998. Also filed was a Joint Motion for Declaratory Ruling by AT&T and MCI Worldcom on February 8, 1999. SBC has not yet filed an implementation plan. The parties are currently waiting for the PUC to issue an immediate order or a hearing schedule.
2. Arkansas: The Arkansas Commission has not addressed intraLATA dialing parity despite a petition filed by AT&T October of 1998. SBC has not yet filed an implementation plan.

*US West*

3. Idaho: State Law has prevented the State Commission from acting in the matter of dialing parity. USWest has not filed an implementation plan. Since the statute was passed before the Telecommunications Act of 1996 ("the Act"), the Idaho Commission has decided that the Act prevails and has ordered USWest to file an implementation plan by June 1, 1999.
  4. North Dakota: State Law has prevented the State Commission from acting in the matter of dialing parity. USWest has not filed an implementation plan. This statute expires on July 31, 1999. There is currently a proposal at the state legislature to extend the USWest exemption until January 1, 2000.
  5. South Dakota: State Law has prevented the State Commission from acting in the matter of dialing parity. USWest has not filed an implementation plan. There is no expiration date.
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